

# New Hampshire Democratic Party

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Raymond Buckley, Chair



MUR # 7145

September 23, 2016

Daniel A. Petalas  
Acting General Counsel  
Federal Election Commission  
999 E Street, NW Washington, DC 20463

OFFICE OF GENERAL COUNSEL

2016 OCT -5 PM 2:58

RECEIVED  
FEDERAL ELECTION  
COMMISSION

Re: Complaint against Frank C. Guinta and Friends of Frank Guinta

Dear Mr. Petalas:

The New Hampshire Democratic Party files this complaint against Frank C. Guinta, a candidate for the U.S. House for New Hampshire's Congressional District 1, and his campaign committee, the Friends of Frank Guinta ("the Guinta campaign") for:

- A brazen violation of the express terms of a Conciliation Agreement entered into by Mr. Guinta and the Guinta campaign just last year and approved by the Federal Election Commission on April 29, 2015 (FEC MUR 6440).
- The unlawful use of campaign funds to personally benefit Mr. Guinta in violation of 52 U.S.C. §30114(b)(1).

### Violation of the Express Terms of the Conciliation Agreement

In the Conciliation Agreement Mr. Guinta and the Guinta campaign expressly agreed that "[d]uring the 2010 campaign, the Friends of Frank Guinta and its treasurer acting in his official capacity did not properly disclose that the funds Guinta loaned to his committee were drawn from accounts held in Guinta's parents' names" and to the FEC's conclusion "that Friends of Frank Guinta accepted excessive contributions as a result in violation of 52 U.S.C. 30116(f)." Mr. Guinta was not a signatory to the accounts from which the loans were made and the FEC rejected Mr. Guinta's contention that he had an "equitable interest" in his parents' bank accounts. As a remedy for this violation, Mr. Guinta and the Guinta campaign agreed to "refund the \$355,000 loaned to Friends of Frank Guinta within twelve months."

The plain reading of the Conciliation Agreement is that to comply with its terms the Guinta campaign needed to "refund" \$355,000 to Mr. Guinta's parents not *give* Mr. Guinta

\$355,000 for his own personal use. Mr. Guinta and the Guinta campaign voluntarily entered into this agreement at what the FEC calls the pre-probable cause stage. Mr. Guinta had the right to further litigate this matter with the FEC if he disagreed with the terms proposed by the FEC's General Counsel, but Mr. Guinta chose not to.

Nevertheless, contrary to the clear meaning of the Conciliation Agreement, the \$355,000 is now in a bank account to which Mr. Guinta himself is a signatory, according to Mr. Guinta's chief of staff Jay Ruais (See *Union Leader*, Aug. 17, 2016, "Dan Tuohy's Granite Status: Guinta's most recent financial disclosure raises questions," a copy of which is attached.)

Thus, the Guinta campaign either directly gave \$355,000 to Mr. Guinta for his personal use or laundered it to him by "refunding" the money to his parents who then transferred it to Mr. Guinta or who put the money into a bank account that Mr. Guinta could personally access. However this circumvention of the Conciliation Agreement was orchestrated, it puts Mr. Guinta in the position of once again, now in his 2016 campaign, of taking yet another unlawful excessively large contribution from his parents to his political committee.

Mr. Guinta has made a mockery of the FEC General Counsel's five-year investigation and has brazenly violated the terms of the 2015 Conciliation Agreement.

**Unlawful Use of Campaign Funds To Personally Benefit Mr. Guinta**

It is illegal for a candidate to receive funds from his own political committee for his personal use. As set forth above, \$355,000 in funds from his political committee have, by one means or another, been transferred to a bank account over which Mr. Guinta has personal control. This is a violation of 52 U.S.C. §30114(b)(1).

**Request for Relief**

The New Hampshire Democratic Party respectfully requests that the Federal Election Commission:

1. Open an investigation into Mr. Guinta's and the Guinta campaign's apparent violations of federal laws prohibiting excessive contributions to a political committee and the use of campaign funds for the personal benefit of the candidate; and
2. At the conclusion of the investigation, impose appropriate sanctions against Mr. Guinta and the Guinta campaign.



August 17, 2016 10:16PM

# Dan Tuohy's Granite Status: Guinta's most recent financial disclosure raises questions

U.S. Rep. **Frank Guinta** is claiming the "Guinta Family Fund" as a major asset, an account valued at between \$250,000 and \$500,000, on his 2015 financial disclosure statement.

It represents the loan repayment of \$355,000 per the Federal Election Commission order finalized May 5, 2015, according to his campaign and office.

The FEC conciliation agreement required Guinta to amend reports "to reflect that the funds at issue were obtained from the accounts held in Guinta's parents' names."

While Guinta has maintained that the money was his, and that he had an equitable interest in the funds, the FEC rejected this "family pot" defense.

In doing so, the FEC concluded the two-term congressman broke federal election finance law by accepting excessive illegal contributions from his parents during his 2010 campaign.

Guinta was fined \$15,000 and ordered to repay the \$355,000 within a year. He paid the fine last year. He cut a check for \$355,000 in January of 2016 — though the asset, in one of seven Bank of America accounts, is listed on his financial disclosure statement for 2015.

Guinta campaign manager **Jay Ruais**, in an email, responded that Guinta is in full compliance with the FEC agreement and the account balance is the "Guinta Family Fund."

Guinta is a signator on the account, as are his parents, Virginia and Richard Guinta, according to Ruais.

The Union Leader received a copy of Guinta's 2015 financial disclosure statement from his congressional office. It is not yet posted on the U.S. House Clerk's public disclosure website. Per



**Granite Status**  
**Dan Tuohy**

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the Ethics in Government Act, members of Congress must file a financial disclosure by May 16, 2016, for the calendar year 2015. Guinta requested and received a 90-day extension, which was up Aug. 14.

In 2010, his GOP primary opponents raised red flags when Guinta amended financial reports to highlight an account and personal loans to his campaign committee. Derry Republican **Christopher Wolfe**, who filed the first FEC complaint against Guinta, said documents did not exist at that time to show that Guinta had the means to loan his campaign so much money.

Wolfe said Wednesday it is interesting that the money illegally contributed to his campaign in 2010 is now listed as a personal asset. It raises more questions, he said.

**Fergus Cullen**, a former state GOP chairman who was one of the first people to report on the FEC complaint, said the FEC determined that the money was not Guinta's personal funds, and that he had to repay his parents' accounts.

"He's transferred the money into an account he controls. The money comes from his parents," he said.

Cullen has filed a different FEC complaint based on Guinta paying back \$81,500 of the original \$355,000 loan to himself. That repayment was well before the FEC settlement agreement in 2015. Because Guinta repaid the \$355,000 in January of this year, Cullen argues he's "double-dipping," paying himself — or his "family fund," an extra \$81,500.

Guinta's campaign did not respond to questions about whether listing the "family fund" as a personal asset is at odds with the FEC finding, whether any of this "asset" would be used to fund his 2016 re-election bid, or whether he will agree to release his tax returns.

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~~TWO NEW Hampshire politicians have had their email addresses hacked. U.S. Rep. **Annie Kuster**, D-NH, may have had some personal information compromised in connection with a breach of the Democratic Congressional Campaign Committee. This appears unrelated to the hack of the Democratic National Committee. Meanwhile, someone hacked the personal email account of New Hampshire Senate Minority Leader **Jeff Woodburn**, D-Dalton. In an email blast, the culprit purporting to be Woodburn asks for a loan of \$9,000 to help pay for an operation on a tumor for his wife. Woodburn, in a phone interview from Concord Wednesday, said the hack was reported late Tuesday night. "No malicious partisanship" was at play, he joked.~~

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~~THE NEW Hampshire Democratic Party and **Hillary Clinton's** campaign plan to open another four offices this week, which will bring their number of coordinated campaign offices to 14. Gov. **Maggie Hassan**, a Democrat running for U.S. Senate, will open an office in Claremont on Thursday; and an office in Dover on Saturday. U.S. Rep. **Ann McLane Kuster**, D-NH, will be on~~

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